



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0846; FRL-9304-02-R9]

Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) from flares. We are approving these local rules to regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: These rules are effective on **[Insert date 30 days after date of publication in the *Federal Register*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2021-0846. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the

FOR FURTHER INFORMATION CONTACT section.

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SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our”

refer to the EPA.

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I. Proposed Action

On January 25, 2022 (87 FR 3736), the EPA proposed to approve the following rules into the California SIP.

Local Agency	Rule #	Rule Title	Adopted/ Amended	Submitted
SCAQMD	1118.1	Control of Emissions from Non-Refinery Flares	01/04/2019	04/24/2019
SJVUAPCD	4311	Flares	12/17/2020	03/12/2021

SCAQMD Rule 1118.1 is designed to decrease VOC, sulfur dioxide, and nitrogen oxides emissions from non-refinery flares. SJVUAPCD Rule 4311 is designed to decrease NOx and VOC flare emissions from refineries, unrecoverable gases from oil wells, vented gases from blast furnaces, unused gases from coke ovens, and gaseous wastes from chemical industries. We proposed to approve these rules because we determined that they comply with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During the comment period we received one comment in support of EPA’s January 25, 2022 proposed

action. We acknowledge the comment, and we are approving the rules into the SIP.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the California SIP. The December 17, 2020 version of SJVUAPCD Rule 4311 will replace the previously approved version (76 FR 68106) of this rule in the SIP. The January 4, 2019 version of SCAQMD Rule 1118.1 is a new rule in the SIP.

IV. Environmental Justice Analysis

SJVUAPCD evaluated the socioeconomic impact analysis of the amendments to Rule 4311.¹ The District selected Eastern Research Group, Inc (ERG) to complete the analysis, in which they used CalEnviroScreen 3.0² to overlay the data on the impacts of the rule with data on poverty. They concluded that there was “no statistical correlation between the affected facilities and poverty, but many of the potentially affected facilities are located in the census tracts with high percentages of the population living in poverty.”³ SJVUAPCD Rule 4311 is expected to have a positive effect on the quality of air around the impacted facilities and reduce emissions. The EPA reviewed the District’s socioeconomic analysis and did not identify any information in the record that impacts our proposed approval. SCAQMD did not submit a socioeconomic analysis with their April 24, 2019 Rule 1118.1 submission.

V. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SJVUAPCD and SCAQMD rules identified in section I. of this preamble. These

¹ SJVUAPCD, Final Staff Report, “Potential Amendments to Rule 4311--Flares,” December 9, 2020.

² California Office of Environmental Health Hazard Assessment (OEHHA). (2018). CalEnviroScreen 3.0 (updated June 2018). Available at <https://oehha.ca.gov/calenviroscreen/maps-data> (Accessed September 3, 2020)

³ SJVUAPCD, Final Staff Report, “Potential Amendments to Rule 4311--Flares,” December 9, 2020.

rules concern emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) from flares. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

As described above in section IV, the state evaluated environmental justice considerations as part of its SIP submittal for Rule 4311. The EPA considered the state's evaluation as part of EPA's review. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Thus, there is no information in the record inconsistent with the stated goals of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**insert date 60 days after the date of publication in the *Federal Register***]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: **December 19, 2022.**

Martha Guzman Aceves,
Regional Administrator,
Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency amends Part 52, chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(378)(i)(D)(2), (c)(564)(i)(A)(2) and (c)(587) to read as follows:

§52.220 Identification of plan-in part.

* * * *

(c) * * *

(378) * * *

(i) * * *

(D) * * *

(2) Previously approved on November 11, 2011 in paragraph (c)(378)(i)(D)(1) of this section and now deleted with replacement in (c)(587)(i)(A)(1), Rule 4311 “Flares,” amended June 18, 2009.

* * * *

(564) * * *

(i) * * *

(A) * * *

(2) Rule 1118.1, “Control of Emissions from Non-Refinery Flares,” adopted on January 4, 2019.

(3) [Reserved]

* * * *

(587) Amended regulations for the following APCDs were submitted on March 12, 2021 by the Governor’s designee as an attachment to a letter dated March 10, 2021.

(i) *Incorporation by reference.* —(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4311, “Flares,” amended on December 17, 2020.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

[FR Doc. 2022-27996 Filed: 12/27/2022 8:45 am; Publication Date: 12/28/2022]